



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,985	01/05/2007	Joachim Beine	1131-18-PCT-PA-TD	5542
22145 7590 03/30/2010 KLEIN, O'NEILL & SINGH, LLP 18200 Von Karman Avenue Suite 725 IRVINE, CA 92612				
EXAMINER				
TYLER, STEPHANIE E				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
03/30/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/571,985

**Applicant(s)**

BEINE ET AL.

**Examiner**

STEPHANIE E. TYLER

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 3/14/2006

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19-22,24-26,28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasboske (6,170,712).

The Kasboske reference disclose a molded container having a plurality of walls including a first and second side walls (22,24), two collapsible walls (36,40) each being disposed in between the first side wall and the second side wall, a shoulder portion (19) having a port (20), a bottom wall (17), wherein the bottom wall (17) consists of an interior wall surface (60) and an exterior wall surface (62) and a fold line separating (50) the interior wall surface into a first interior section and a second interior section; and wherein portions of the first interior section and the second interior section of the bottom wall move closer to one another and portions of the exterior wall surface of the bottom wall are disposed outwardly away from the interior cavity when the container collapses.

3. Claims 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lhoest (3,926,341).

The Kasboske reference disclose a molded container having a plurality of walls including a first and second side walls (1,3), two collapsible walls (2,4) each being disposed in between the first side wall and the second side wall, a bottom wall (6),

wherein the bottom wall (6) consists of an interior wall surface (inside wall surface of 6) and an exterior wall surface (outer wall surface of 6) and a fold line separating (50) the interior wall surface into a first interior section and a second interior section; and wherein portions of the first interior section and the second interior section of the bottom wall move closer to one another and portions of the exterior wall surface of the bottom wall are disposed outwardly away from the interior cavity when the container collapses; and wherein the bottom wall (6) further consists of a transverse fold (9) that moves outward during flattening.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 29-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasboske (6,170,712) in view of Schaefer (4,986,053).

The Kasboske reference discloses substantially all the structure and functionality of the invention; however the Kasboske reference lacks the perform of the container being a multi-layer perform consisting of an overall wall thickness.

The Schaefer teaches a the method of manufacturing the perform of the container having a multi-layer perform consisting of an overall wall thickness (see fig.1); and wherein at least one of the layers is a layer of adhesive agent (18); and wherein at

least one of the layers is a layers is made from an ethylene/vinyl alcohol material (14); and wherein an outer layer is made of a polyamide or a polyester material (16) for the purpose of holding/packaging a various of products.

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have reasonably modified the container of the Kasboske device to have a perform container with multi-layers as taught by Schaefer in order to provide a holding for certain volatile materials without shorting the life use of the container itself.

6. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kasboske (6,170,712) in view of Schaefer (4,986,053) as applied to claim 38 above, and further in view of Larkin et al. (4,547,900).

The Kasboske and Schaefer references disclose substantially all the structure and functionality of the invention; however the both references lack two ports at the discharge end of the container.

The Larkin et al. reference teaches a container for liquids having a discharge end consisting of two ports (13,14) for the purpose of being sealed until dispensing of contents takes place.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Kasboske device to provide the method of having two ports at the discharge end as taught by Larkin et al. in order to provide orifices to dispense liquid from the container therethrough.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kasboske (6,170,712) in view of Larkin et al. (4,547,900).

The Kasboske reference discloses substantially all the structure and functionality of the invention; however the Kasboske reference lacks a container with a port having a pierceable membrane.

The Larkin et al. reference teaches a container for liquids having a discharge end having at least one port (13) with a pierceable membrane (15,17) for the purpose of withdrawing liquid from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Kasboske device to have a port with a pierceable member as taught by Larkin et al. in order to provide the user with a sanitary and safe way of drawing fluid from the container.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Kubota et al. (5,611,461), Cobb (3,727,803), Grosjean (3,595,441), Segati (5,174,458), Löfgrer et al. (4,674,655), and Polan (6,158,620) are other various types of containers with fold lines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. TYLER whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. E. T./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754